

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

KAMINI A. SHAH,	)	
	)	
Defendant Below,	)	
Appellant,	)	C.A. No. N10A-09-007 MMJ
	)	
v.	)	
	)	
202 INVESTMENTS, INC.,	)	
	)	
Plaintiff Below	)	
Appellee.	)	

Submitted: August 16, 2011

Decided: November 15, 2011

On Appeal from Decision of the Court of Common Pleas

**AFFIRMED**

**MEMORANDUM OPINION**

Kamini A. Shah, *Pro Se*, Defendant Below, Appellant

Patrick Scanlon, Esquire, Law Offices of Patrick Scanlon, P.A., Wilmington,  
Delaware, Attorney for Plaintiff Below, Appellee

**JOHNSTON, J.**

Appellant Kamini Shah (“Shah”) has appealed the August 20, 2010 decision of the Court of Common Pleas. The Court of Common Pleas entered judgment in favor of Appellee 202 Investments, Inc. (“202 Investments”) for Shah’s nonpayment, and subsequent default, on an account owned by 202 Investments.

Shah contends that the Court of Common Pleas’ decision constituted legal error and was not supported by substantial evidence.

### **FACTUAL AND PROCEDURAL CONTEXT**

Shah was issued a line of credit by West Asset Management.<sup>1</sup> This credit card account was subsequently acquired by CACH, LLC before being purchased by 202 Investments on January 28, 2010. The balance of Shah’s account, at the time of 202 Investments’ acquisition, was \$1,168.36. No payments were made by Shah since 202 Investments acquired the account.

On April 1, 2010, 202 Investments filed a complaint against Shah, seeking the outstanding balance on the account, as well as pre-judgment and post-judgment interest. On August 20, 2010, the matter proceeded to trial.

### ***The Trial***

John Fedele, president and owner of 202 Investments, testified that Shah’s account was purchased from CACH, LLC with a balance of

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<sup>1</sup> The original agreement between West Asset Management and Shah was not offered into evidence at trial.

\$1,168.36. Fedele indicated that no payments had been made on the account since January 28, 2010.

Shah testified in her own defense, acknowledging that the balance of the account exceeded \$1,000 but contending that she was deceived into entering into the initial credit card agreement with West Asset Management.

### ***The Court of Common Pleas' Decision***

By order dated August 20, 2010, the Court of Common Pleas entered judgment in favor of 202 Investments. The court awarded 202 Investments the outstanding balance on the account - \$1,168.36; accrued pre-judgment interest at a rate of 7.50% per annum from January 28, 2010 to August 20, 2011 - \$48.98; and court costs - \$111.00. The court also awarded post-judgment interest at a rate of 7.50% per annum from August 20, 2010 until the balance is paid in full.

### **STANDARD OF REVIEW**

In considering appeals from the Court of Common Pleas to the Superior Court, factual issues are reviewed on the record and are not tried *de novo*.<sup>2</sup> This Court's role is to correct errors of law and to review the factual findings of the court below to determine if such findings are sufficiently

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<sup>2</sup> 11 Del. C. § 5301.

supported by the record and are the product of an orderly and logical deductive process.<sup>3</sup> Questions of law are reviewed *de novo*.<sup>4</sup>

### **PARTIES' CONTENTIONS**

Shah argues that the Court of Common Pleas' decision constituted legal error. Shah first claims that by failing to produce the original credit card contract, 202 Investments did not present sufficient evidence demonstrating the existence of the debt.

Alternatively, Shah claims that original credit card contract contained fine print, high interest rates, and hidden charges which are intended to “trap” senior citizens. Therefore, Shah contends that her contract was fraudulent, and thus, unenforceable.

In response, 202 Investments argues that the Court of Common Pleas' decision is supported by substantial evidence and is the product of an orderly and logical deductive process. According to 202 Investments, uncontroverted evidence was presented establishing that Shah owned the account and had defaulted on payment.

### **ANALYSIS**

The Court finds substantial record evidence to support the Court of Common Pleas' factual findings. Although the original credit card

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<sup>3</sup> *Levitt v. Bouvier*, 287 A.2d 671, 673 (Del. 1972).

<sup>4</sup> *Ensminger v. Merrit Marine Const. Inc.*, 597 A.2d 854, 855 (Del. Super. 1988).

agreement between Shah and West Asset Management was not offered into evidence at trial, Shah acknowledged that she entered into the contract. Shah further acknowledged that at the time she ceased making payments on the account, the balance exceeded \$1,000. Shah's admission, alone, sufficiently supports the Court of Common Pleas' finding that Shah was the owner of the account, and thus liable for the unpaid balance in the amount of \$1,168.36.<sup>5</sup> The Court also finds that 202 Investments is entitled to pre-judgment and post-judgment interest as a matter of right.<sup>6</sup>

The Court further finds Shah's allegations of fraud meritless. While it is well-settled that a contract may be voidable on the basis of misrepresentation,<sup>7</sup> Shah has failed to present any evidence substantiating this claim. Allegations of fraud must be pled with particularity.<sup>8</sup> General assertions of fraudulent conduct are insufficient.<sup>9</sup>

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<sup>5</sup> Although Shah did not testify as to the exact balance on the account, the Court accepts 202 Investments' calculation that the unpaid balance totaled \$1,168.36. Shah has offered no evidence to refute this calculation.

<sup>6</sup> See *Finestrauss v. Woloshin, Lynch, Natalie & Gagne, P.A.*, 2011 WL 2936011, at \*3 (Del. Super.) (citing *Moskowitz v. Mayer & Council of Wilmington*, 391 A.2d 209, 210 (Del. 1978)).

<sup>7</sup> *Finestrauss*, 2011 WL 2936011, at \*2; *Tekstrom Inc. v. Savla*, 2006 WL 2338050, at \*5 (Del. Super. 2006); *Alabi v. DHL Airways, Inc.*, 583 A.2d 1358, 1361 (Del. Super. 1990).

<sup>8</sup> Super. Ct. Civ. R. 9(b).

<sup>9</sup> *Stephenson v. Capano Dev., Inc.*, 462 A.2d 1069, 1074 (Del. 1983).

## **CONCLUSION**

The Court finds that the Court of Common Pleas' decision to award 202 Investments \$1,168.36, as well as pre-judgment and post-judgment interest, was supported by substantial evidence of record, and was the product of an orderly and logical deductive process.

**THEREFORE**, the Court hereby **AFFIRMS** the Court of Common Pleas' August 20, 2010 Order in its entirety.

**IT IS SO ORDERED.**

/s/ Mary M. Johnston  
The Honorable Mary M. Johnston